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sent you this some
time ago. Of so, toss.
Julie Hagansen*



September 30, 1991

Reply to
attn of: SO-125

Julie
RECEIVED

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9/30/91

Mr. Jerry Ackerman
Assistant Attorney General
Washington Attorney General's Office
Ecology Division
4407 Woodview Drive S.E., MS QA-44
Olympia, Washington 98504-8077

Re: General Electric Site in Spokane, Washington

Dear Mr. Ackerman:

Enclosed is a draft of the letter we discussed several weeks ago from Ken Feigner, Branch Chief of the Pesticides and Toxic Substances Branch of EPA Region 10, to Dr. Deborah Hankins, Manager of the General Electric Superfund site in Spokane, Washington. The letter sets forth the EPA TSCA program's understanding of the circumstances under which PCBs were brought to the General Electric site in October 1990 and the conditions under which the EPA TSCA program would refrain from taking formal enforcement action against General Electric under TSCA.

The Branch Chief of EPA Region 10's Superfund Branch is currently reviewing the enclosed draft with his staff. It is my understanding that Cathy Massimino of EPA's Hazardous Waste Division and Bob Kievit of EPA's Washington Operations Office are currently working with the Washington Department of Ecology to ensure that the assumptions set forth on page 3 of the letter, on which the EPA TSCA program has relied in drafting the letter, accurately reflect the situation at the General Electric site in Spokane. I also understand that William Hedgebeth, EPA Region 10 PCB Team Leader, has discussed in general terms the contents of the letter with Carole Fleskas and Guy Gregory.

In addition, I have discussed the contents of the letter with Dan Ballbach, attorney for General Electric, and Jean Rice, in-house counsel for General Electric. The October 1, 1993, timetable for submitting an application for a TSCA PCB disposal approval was determined in consultation with Dr. Hankins. Although General Electric disputes EPA Region 10's position that General Electric is in violation of the one year limit on the storage of PCB waste, see 40 C.F.R. § 761.65(a),

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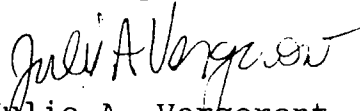
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General Electric appears to be comfortable with the concept of a document that outlines the conditions under which EPA would not take formal enforcement action based on the alleged violation.

Please call me with your comments or questions after you have had an opportunity to discuss the enclosed letter with the Department of Ecology. I intend to share a list of the conditions set forth on pages 3 and 4 of the letter with Dan Ballbach prior to issuance of the letter to General Electric. At this time, however, I ask that the enclosed letter not be provided to General Electric or their attorneys.

General Electric is anxious to receive the final version of the letter as soon as possible. Your prompt review of the enclosed draft would therefore be greatly appreciated.

Sincerely,



Julie A. Vergeront
Assistant Regional Counsel

cc Phil Millam, HW-113
Ken Feigner, AT-083
Tod Gold, SO-125
Julie Hagensen, WOO

bcc Gil Haselberger, AT-083
William Hedgebeth, AT-083
Christina Colt, AT-083
Bob Kievit, WOO
Cathy Massimino, HW-112



DRAFT

Reply to the
Attention of M/S AT-083

Dr. Deborah Hankins
Manager, Remedial Projects
General Electric Company
275 Battery St., 23rd Floor
San Francisco, California 94111

Re: General Electric site in Spokane, Washington
EPA Identification Number WAD135852150

Dear Dr. Hankins:

This letter concerns PCB (polychlorinated biphenyl) waste which General Electric Company (GE) manifested on Uniform Hazardous Waste Manifest Number 90113 on October 26, 1990, to the GE site located at E. 4323 Mission Ave., Spokane, Washington. The PCB waste was identified on the manifest as having been removed from service on September 18, 1990. Following is our understanding of certain circumstances relating to this PCB waste, and our specification of provisions for resolution of certain conditions at the GE site in Spokane.

At the time of the transport of this PCB waste, Geosafe Corporation had a Toxic Substances Control Act (TSCA) approval, pursuant to 40 C.F.R. § 761.60(e) of the PCB Regulations, to dispose of PCBs at the GE site by means of in situ vitrification. The approval was issued on August 2, 1990, by the U.S. Environmental Protection Agency's (EPA's) Headquarters, Office of Toxic Substances, Chemical Regulation Branch. This disposal project was part of a treatability study to determine appropriate remediation response for PCB contamination on the GE site, which is on EPA's National Priorities List of Superfund sites. The State of Washington, Department of Ecology, under the authority of the Model Toxics Control Act (MTCA), has the lead on the cleanup of contamination at this site pursuant to a Memorandum of Agreement with EPA.

It is our understanding that the PCB waste transported to the GE site in Spokane was used to "spike" soil in one of five melt cells intended for use in the in situ

vitrification process, and that the soil contaminated by this spiking action remains in that cell. Geosafe Corporation's approval to dispose of PCBs by in situ vitrification at the GE site expired on December 15, 1990. No request for renewal of the approval has been received by EPA. Therefore, there is currently no TSCA-approved PCB disposal facility at the GE site in Spokane.¹ A review of information obtained to date has documented that PCB waste manifested by GE on Uniform Hazardous Waste Manifest Number 90113, and transported by GE to the GE site in Spokane, Washington, on October 26, 1990, was not disposed of within one year of the date when it was first placed into storage. 40 C.F.R. § 761.65(a) requires that any PCB Article or PCB Container stored for disposal after January 1, 1983, be removed from storage and disposed of as required by 40 C.F.R. Part 761, Subpart D, within one year from the date when it was first placed into storage.

It is our understanding that the following accurately describes the PCB-spiked cell and its relevance to the cleanup efforts at the GE site in Spokane:

1. The PCB-spiked cell does not represent a significant health or environmental risk.
2. The cell in question was spiked with PCBs in accordance with a formal approval from EPA's Office of Toxic Substances pursuant to 40 C.F.R. Part 761. The PCB waste used to spike the cell was transported to the GE site when Geosafe Corporation had a TSCA disposal approval at the site.
3. The PCB-spiked cell will be monitored by the State of Washington, Department of Ecology, and/or by EPA Region 10 Superfund personnel with sufficient frequency and with appropriate procedures to assure that PCBs are not migrating from the cell.
4. The in situ vitrification process continues to be a viable treatment/disposal option for the cleanup of the PCB contamination at the GE site in Spokane. Demonstration of the effectiveness of the technology, through treatability studies of materials in the PCB-spiked cell, is a necessary step in the selection of the final cleanup remedy.

¹ EPA disagrees with GE's assertion in a letter to Margaret Silver from Dan Ballbach dated August 29, 1991, that approvals are not necessary and should be waived under CERCLA and/or the NCP. Although GE Spokane is an NPL site, the cleanup is being conducted under the authority of MTCA. Accordingly, compliance with all applicable requirements under other federal environmental statutes, including TSCA, is required.

Based on the above information and understanding, no formal TSCA enforcement action relative to the PCB-spiked cell will be taken by EPA Region 10, provided that the information described in items one through four above continues to accurately describe the PCB-spiked cell and its relevance and importance to the cleanup efforts at the GE site in Spokane. Our determination not to take formal TSCA enforcement action is also conditional upon the following:

1. GE, or a contractor for GE, submits an application for a TSCA PCB disposal approval, pursuant to 40 C.F.R. § 761.60(e), for an in situ vitrification process at the GE site, no later than October 1, 1993. The application should be submitted to EPA Headquarters, with a copy of the cover letter submitted to EPA Region 10. If no application has been submitted by October 1, 1992, GE shall advise EPA Region 10, by that date, of the status of the application.
 - A. If an approval is granted to GE (or its contractor), and it is determined by the State of Washington, Department of Ecology, and GE that the in situ vitrification treatability studies on the PCB waste in the spiked cell will extend beyond the expiration date of the approval, GE (or its contractor) shall request a renewal of the approval at least two months prior to the expiration date. Such a request for renewal shall be submitted to EPA Headquarters, with a copy of the request submitted to EPA Region 10.
 - B. If an application for a TSCA PCB disposal approval for an situ vitrification process is submitted prior to October 1, 1993, and approval of such disposal is denied, GE shall notify EPA Region 10 of such denial within 30 days of such denial. Within 60 days of such denial, GE shall notify EPA Region 10 of its proposed disposal method(s) under 40 C.F.R. § 761.60, for the PCB waste in the spiked cell. Within 90 days of such denial, GE shall provide EPA Region 10 with documentation that the PCB waste in the spiked cell has been manifested, pursuant to 40 C.F.R. §§ 761.207 through 761.218, to a TSCA-approved PCB disposal facility.
2. If no application is submitted by GE (or its contractor) by October 1, 1993, for approval to dispose of PCBs in the spiked cell by in situ vitrification, GE shall so notify EPA Region 10 no later than November 1, 1993. No later than December 1, 1993, GE shall notify EPA Region 10 of its proposed disposal method(s) under 40 C.F.R. § 761.60, for the PCB waste in the spiked cell. No later than January 1, 1993, GE shall provide

EPA Region 10 with documentation that the PCB waste in the spiked cell has been manifested, pursuant to 40 C.F.R. §§ 761.207 through 761.218, to a TSCA-approved PCB disposal facility.

3. If either GE (or its contractor) or the State of Washington, Department of Ecology, determines that the in situ vitrification process can not be used to dispose of the PCB waste in the spiked cell, or if GE (or its contractor) otherwise determines prior to October 1, 1993, not to submit an application for approval to dispose of the PCBs in the spiked cell by in situ vitrification, GE shall notify EPA Region 10 of this determination, within 30 days of such determination. Within 60 days of such determination, GE shall notify EPA Region 10 of its proposed disposal method(s) under 40 C.F.R. § 761.60, for the PCB waste in the spiked cell. Within 90 days of such determination, GE shall provide EPA Region 10 with documentation that the PCB waste in the spiked cell has been manifested, pursuant to 40 C.F.R. §§ 761.207 through 761.218, to a TSCA-approved PCB disposal facility.

All documents or notices required to be submitted to EPA Headquarters shall be submitted in writing to:

Joseph J. Merenda, Jr., Director
Exposure Evaluation Division, TS-798
Environmental Protection Agency
401 M St S.W.
Washington, D.C. 20460

All documents or notices required to be submitted to EPA Region 10 shall be submitted in writing to:

William M. Hedgebeth
PCB Team Leader
EPA Region 10
Toxic Substances Section
1200 Sixth Avenue, M/S AT-083
Seattle, Washington 98101

DRAFT

EPA Region 10 reserves the right to take appropriate legal action if, in our judgment, GE does not comply with the requirements set forth in this letter. If you have any questions, please contact either William Hedgebeth, EPA Region 10 PCB Team Leader, at (206) 553-7369, or Christina Colt, EPA Region 10 PCB Disposal Coordinator, at (206) 553-8577.

Sincerely,

Kenneth D. Feigner, Chief
Pesticides and Toxic Substances Branch

cc: Chuck Findley, HW-111
Phil Millam, HW-113
Julie Vergeront, SO-125
Tod Gold, SO-125
William Hedgebeth
Christina Colt
Gil Haselberger
Bob Kievit, WOO
Julie Hagensen, WOO
Carole Fleskas, Wash. Dept. of Ecology, Olympia
Dave Jantzen, Wash. Dept. of Ecology, Olympia
Guy Gregory, Wash. Dept. of Ecology, Spokane
Peter Maule, Wash. Dept. of Ecology, Bellevue
John Ballbach, Perkins Coie
John Smith, EPA HQ, TS-798
Hiroshi Dodahara, EPA HQ, TS-798